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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,186	08/28/2001	David Lohr	FSI-83	5985
26875	7590	07/08/2004	EXAMINER	
WOOD, HERRON & EVANS, LLP			PHAM, MINH CHAU THI	
2700 CAREW TOWER				
441 VINE STREET			ART UNIT	PAPER NUMBER
CINCINNATI, OH 45202			1724	

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/941,186	LOHR ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Minh-Chau T. Pham	1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 May 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 and 13-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-10 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hugh (6,117,687; Figs. 1, 5 & 6; col. 2, lines 41-58; col. 6, line 66 through col. 7, line 20; col. 8, line 58 through col. 9, line 24), in view of any one of O'Halloran et al (6,146,266), Comproni et al (6,143,048) and Berman et al (5,834,069).

Hugh discloses a controlled atmosphere incubator comprising a heater, a cabinet in thermal communication with the heater and surrounded by top, bottom, rear and side walls with an opening, an outer door pivotally mounted to the front side, a blower mounted within the cabinet, a plenum formed in the chamber and providing an air path through the chamber and the plenum being partially formed by a plate mounted across the chamber between the inlet and outlet of the blower, and a filter attached to the inlet of the blower. Claims 1-10 and 13-17 differ from the disclosure of Hugh in that the apparatus comprises a VOC filter attached to the inlet of the blower and an HEPA filter coupled with it. O'Halloran et al disclose a filtration system comprising a chemical filter such as a carbon filter coupled with an HEPA filter (see col. 7, lines 23-26, lines 57-58; col. 9, line 61; col. 11, line 13 and line 27). Comproni et al disclose an air pollution control apparatus for capturing airborne pollutants wherein the filtration system comprising a chemical filter such as a carbon filter coupled with an HEPA filter (see col. 2, lines 9-11 and lines 23-34). Berman et al disclose an air pollution control apparatus for capturing airborne pollutants wherein the filtration system comprising a chemical

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filter such as a carbon filter coupled with an HEPA filter (see col. 5, lines 27-33). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a chemical filter coupled with an HEPA filter located at the inlet of the blower as taught by any one of O'Halloran et al, Comproni et al and Berman et al in the incubator of Hugh since it is well known in the art that chemical filter would effectively removes any undesirable chemical contaminants and HEPA effectively removes particulates from the air circulation of the incubator.

#### ***Response to Arguments***

Applicant's main argument is that the cited secondary reference Urrusti does not disclose a "chemical filter namely the VOC filter located at the inlet of the blower coupled with an HEPA filter". The Examiner disagrees with Applicant in that the Urrusti reference does not disclose a chemical filter. A chemical filter is a filter which is capable to capture organic particles, and Urrusti does disclose this chemical filter (see col. 1, lines 17-18). Since Applicant keeps insisting of a VOC filter per se, the Examiner now drops the cited secondary reference Urrusti and newly introduces the O'Halloran et al, Comproni et al and Berman et al as the secondary references and all of these 3 new references show the limitation of a chemical filter namely VOC filter such as a carbon filter which is capable to capture hazardous Volatile Organic Compounds (VOC's) coupled with an HEPA filter for capturing particulates as claimed. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a chemical filter coupled with an HEPA filter located at the inlet of the blower as taught by any one of O'Halloran et al, Comproni et al and Berman et al in the incubator

of Hugh since it is well known in the art that chemical filter would effectively removes any undesirable chemical contaminants and HEPA filter effectively removes particulates from the air circulation of the incubator.

Applicant's arguments with respect to claims 1-10 and 13-17 have been considered but are moot in view of the new ground(s) of rejection, as discussed above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Minh-Chau Pham  
Patent Examiner  
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